

# DEBATE

## IN THE UNITED STATES SENATE,

SATURDAY, AUGUST 28, 1852,

ON THE

### ANÆSTHETIC PROPERTIES OF SULPHURIC ETHER.

[FROM THE APPENDIX TO THE CONGRESSIONAL GLOBE.]

The Senate having under consideration the bill making appropriations for the support of the Army for the year ending June 30th, 1853—

Mr. BORLAND, from the Committee on Military Affairs, submitted the following amendment, to come in after the appropriation for the medical and hospital department of the Army:

To enable the President of the United States to procure the surrender of the patent issued to William T. G. Morion on the 12th day of November, 1846, for his discovery of the anæsthetic properties of sulphuric ether, \$100,000.

Mr. BORLAND. Mr. President, if the Senate will give me their attention for a few moments, I think I can put this matter on its true merits. The proposition is to appropriate \$100,000 to enable the President of the United States to purchase from a patentee his patent, or the privilege of using property to which he holds exclusive right under his patent.

The first inquiry that we make is: Is that which we propose to purchase valuable?—and, if it is, what is its value? I will not undertake to go into a detail of facts, or any argument to show the value of the discovery of the application of sulphuric ether as an anæsthetic agent. It is a subject which has been before the public so long, that I apprehend every Senator is familiar with its history, and the character of the discovery. I state what I apprehend no one will controvert—I state as a member of the medical profession, representing, in that respect, I think truly, the universal sentiment of the profession throughout the world—that as a discovery beneficial to the human race, if it be second to any which has ever been given to the world, it is second to vaccination alone. I know that the universal sentiment of the medical profession, so far as that sentiment has been expressed, is, that it is second to vaccination.

Then, sir, for the estimation in which it is held by the officers of our Government, who have availed themselves of its use in the public service, I have before me letters from the Secretary of War, from the Secretary of the Treasury, from the Secretary of the Navy, from the head of the Medical Department of the Navy, and from the head of the Med-

ical Department of the Army—all concurring in assigning to this discovery, as used in the public service, the very highest value; and expressing the wish, that the Government might, by proper means, avail itself of the right to use it in the public service. I will not read these letters. It would occupy too much time of the Senate to do so. But if any Senator should desire their reading, they can be read. All assume, that it is of the very highest value, both to the Army and Navy; that it has been availed of for years past; and that incalculable benefits have resulted to the public, in saving life and allaying human suffering, greater than has ever been derived from any one source. It is a well-known fact, that, in the Army and Navy, in the performance of all important surgical operations, this agent is now very rarely, if ever dispensed with. And not only so, in the Army and Navy—not only is it used in saving life and suffering on the part of our soldiers, and our sailors, but throughout the private practice of the country, the most eminent surgeons and physicians resort to it now habitually, and declare that it has become one of the most important and valuable agents which they have in the profession. If there were time, I could go on for hours in giving the particulars, giving the *modus operandi*, giving the cases by name, and by number, till they would count thousands upon thousands; but there is no time at this period of the session for that.

The next point I would present is, how far it is recommended to our consideration? The Select Committee of the House of Representatives, to whom this matter was referred—although, as the Senator from Connecticut suggests, they did not formally make their report, yet it was only because no opportunity was afforded for them to do so—have prepared a report—it is here before me—a most elaborate, learned, and conclusive report as to the incalculable value of this agent, and the propriety, in the opinion of that committee, of its being availed of by the Government.

Sir, it may be asked if this be so valuable—if this individual has a patent for it, why does he not avail himself of the use of the patent, and pre-

vent the use of sulphuric ether as an anæsthetic agent without recompense to him? I need hardly remind the Senate of the fact, that it is one of those cases in which he cannot enforce his legal rights. How can he, sir? Why, this agent is used in every State and county in this Union; and it may be, and perhaps is, used in almost every family where physicians practice. He has no practical remedy for the violation of his patent. Can he go to the bedside of the sick and suffering patient, who is undergoing an operation under the influence of this agent, and lay an injunction upon its use on such an occasion? Certainly not. It is one of those cases which must strike the mind of every man that his patent, so far as the legal remedy extends, is worthless to him, although he has the legal right, for he holds the patent from the United States to its exclusive use for a certain term of years.

The next question is, Is the individual who holds the patent lawfully entitled, if any one, to be paid for the use of this agent? I say, he is. I have before me here a copy of his patent, and of the record in our Patent Office. The official acts of our officers have recognized and established, as our laws require, the identity of this individual as the lawful owner. It has been stated, I know, and may be repeated, that there is an adverse claimant; that there is another individual who claims to be the discoverer, and who has a title to at least a portion of the compensation which we propose to pay. But to meet that I have to show that if that individual ever had any right to be considered the discoverer, or any title to compensation, it has been relinquished for a consideration in favor of Dr. Morton; for here I have from the Patent Office an official announcement to that effect, which is signed by Dr. Jackson, the only individual that I know of who sets up an adverse claim to this discovery. But there is evidence before us from the very highest medical men in the country, and from the very highest medical officers of the Army and Navy, all recognizing Dr. Morton as the discoverer of this invaluable agent. But even if that were not so, the only other individual who sets up a claim to it has already, in the most solemn form, relinquished it forever, and assigned over to Dr. Morton all right or claim which he (Dr. Jackson) ever did have or could have. So that the point is settled that Dr. Morton stands before us as the patentee lawfully entitled to this discovery as the original discoverer.

In the next place, lest it might occur to the minds of some that purchasing the right from a patentee to use a valuable discovery is a new thing in our Government, I beg leave to call attention to the records, which show that it is no new practice, but for years and years has been repeated over and over again. I will cite a few cases. We paid for the right to make anchors of a certain form for the Navy, \$1,500; for the use of circular bullet moulds, \$5,000; for the use of gas in vapor baths, \$5,000; for elevating and pointing heavy cannon, \$20,000; for the right to use patent attrition metal, \$20,000. We paid to the heirs of Robert Fulton, for benefits conferred by his improvements in steam navigation, \$76,300. We paid for Mix's manger stopper, used in the cavalry service, \$3,000. We paid to Dr. Locke, for the use of his magnetic clock, \$10,000. We paid to McCulloch & Booth, for the right to use the improved method of refining our argentiferous gold bullion, \$25,000;—thus making an aggregate of

\$165,000 paid in these cases. But, in addition to these, there have been numerous instances in which patent rights, or the privilege of using in the service of the Government patented articles, have been purchased by the Departments, some of which instances I find cited in connection with the report of the Select Committee of the House of Representatives, for which were paid \$178,032; making an aggregate of \$343,000 paid by the United States for patents and the use of patented articles.

Since I have been a member of the Senate, when meritorious individuals have come before us, who had made important discoveries, we have aided them to test their discoveries by appropriations, amounting in the whole to \$120,000.

I mention these facts to show that precedents are all in favor of such use of the public money to enable the Government to avail itself of important discoveries.

I will not detain the Senate by saying more on this subject. I will briefly sum up. This discovery is a most valuable one to the human family at large. The two branches of our public service, the Army and Navy, have availed themselves extensively of it. It is one of the most valuable remedial agents that the world has ever known. It is in constant and growing use. This idea which we are thus using, not only prolongs human life, and protects our soldiers and our sailors, and all in our public service from immense suffering, but it is saving, in that mode of treating diseases, thousands upon thousands of dollars every year and every month. This individual cannot enforce his legal rights against anybody, owing to the very nature of the case. We are making use of his property to our great benefit, and he is receiving no compensation whatever for it. Then the papers before me, as I have read them, show that he is the individual who is entitled to compensation, if any one, for the use of this property. We find that the practice of the Government—a very enlightened and useful practice, in my opinion—has been in favor of appropriations of this sort. Then, sir, I ask if this is not a proper occasion for the continuance of this practice? When was there ever before us a more meritorious case? The medical profession throughout the country sustain me in the assertion that this is the most valuable remedial agent that ever has been known. How can we, then, in justice to ourselves, in common justice to the individual who has furnished us this valuable, or rather invaluable remedy, refuse to pay him for it?

Mr. SMITH. That a discovery has been made, I admit; and that discovery is, that the effect of ether, taken into the lungs, is to produce insensibility in the human system. I agree with the honorable gentleman from Arkansas, that this substance, when taken into the lungs, will produce insensibility in the subject under the operation of the knife. I agree with him, that it is a great boon to humanity; but I deny that it is a patentable discovery. And I pledge whatever reputation I may have, that if the Senate will allow me, at the next session of Congress, an opportunity to be heard on this subject, I will make out a case for the family of Dr. Horace Wells, deceased. If the subject shall then be referred to the judgment of a committee of this body, I will be prepared to make out a case worthy the most grave and serious consideration.

Mr. GWIN. Mr. President, as I formerly belonged to the medical profession, I wish to indorse



everything that has been said by my friend from Arkansas in regard to this valuable agent. I confess that I came to the examination of this question with extreme reluctance. I had been out of the profession for many years, and I attempted in every way I possibly could to throw it off; but, having been requested by those whom I could not disoblige, to look into it, I must acknowledge that this is one of the most important discoveries that has ever been made in the medical profession; and this gentleman being the patentee, I could look upon it in no other light than that, as we have availed ourselves of his property—for his patent is his property—we should in equity and justice recompense him for it. I came to this conclusion with reluctance; for I was very much disposed, without examination, to go against the claim. But having examined it, I could do nothing less than to add my testimony to that of the Senator from Arkansas, both of us having been in the medical profession.

Mr. SHIELDS. I beg to state how the matter came before the Committee on Military Affairs. The subject was investigated by a Select Committee of the House of Representatives, and I was informed that the claims which the honorable Senator from Connecticut says he represents, were examined before that committee, and that committee has reported. One of my colleagues in the House, [Mr. BRISSELL,] a physician by profession—and permit me to say, not only an able physician, but as veracious a gentleman as any in Congress—assured me that after a full and fair inquiry, instituted by him and the residue of the committee, of which the late lamented Mr. Rantoul, who was a highly-educated and well-informed man, was a member, and after all the claimants had been heard, and after an examination of the evidence, the committee had come to the unanimous conclusion, that Dr. Morton was the discoverer of this great remedial agent. It is a subject which I did not very well understand myself. The Committee on Military Affairs, therefore, committed it to the honorable Senator from Arkansas, who is a physician by profession, and who understands the whole subject. A professional gentleman of the other House, eminent in his profession, and a highly-educated man—a man of veracity and honor, assured me that the committee of that body had thus determined, after a full and fair inquiry.

It has been stated that this is one of the greatest discoveries of modern times. I believe it is. Of that, however, I only know this—that if this remedial agent had been known when the honorable Senator from Connecticut says he understood it was, it was unpardonable that its use was not applied to the American army in the late war with Mexico. It was criminal that it was not applied, if it was known, and it was wicked in that gentleman to withhold his information from the country on such an occasion as that; for, sir, I believe it would have saved thousands and thousands of lives.

Mr. CLEMENS. No doubt of it.

Mr. SHIELDS. Any man who witnessed the scenes which some of us were there called upon to witness, well knows that such an agent would have saved thousands of lives. Sir, thousands of our bravest and best men fell under the pains and afflictions that followed surgical operations. I have seen so much of that, that I was rejoiced to have an opportunity, when I found there was such an agent discovered, to give it my support

in any way; and although I was not acquainted with the subject, I was happy to have it in my power to turn it over to the honorable Senator from Arkansas, who was acquainted with it. I venture to say that there is not a professional man in America or in Europe, who will not consider this the most beneficial discovery since the discovery of vaccination.

I cannot tell whether Dr. Morton is the discoverer or not; I know that those who have examined the subject thoroughly say that he is the discoverer. I have seen in addition, for he has shown it to me, the medal of one of the first medical institutions in the world—that of Paris—acknowledging, and in the name of France pronouncing him the discoverer of this agent, and that he had been able—for it was a good fortune on his part—to make a discovery which has been more beneficial to humanity, than any discovery made in the medical professions since the time of vaccination.

Mr. HALE. I am not one of those who object to the proposition on account of the amount of money. If this discovery really belongs to Dr. Morton, it is no more than right that we should pay for it; because, whatever may be the value of the patent right, it is such a discovery that he cannot enforce his patent rights. It seems to me that the Government of the United States, having granted a patent by their own officers, are estopped from denying its validity; and as the Government are making use of it in the Army and Navy so extensively, it seems to me but fair to compensate this gentleman.

I have been through the Massachusetts general hospital, where this remedial agent was first introduced, and where it was tested. I went through all the wards and rooms of that hospital, and I saw every form of disease and suffering. I went into the dissecting room, and I confess my blood almost ran cold as I looked at the instruments of torture, as they appeared to me, which were about the room; but I was assured by the physicians attending upon that hospital that, by the use of this remedial agent, patients were insensible to the operation of these instruments of torture—that the effect of it was to make them go quietly to sleep; and that the most difficult and dangerous operations were performed there every day, without those on whom they were performed being sensible of them. That great hospital is one of the finest charities on the face of the earth; and by the operation of this agent the most revolting surgical operations are performed every day, while the patients are, as it were, in a deep sleep.

I do not believe there has been a greater contribution made to the cause of humanity anywhere. I do not put this discovery second to vaccination, or anything else; and if the Senate are determined to vote upon it to-day, I hope they will make this appropriation; and with my present convictions, although I should be glad to postpone the subject until the next session, in order to avoid all danger of injustice, I must vote for this appropriation.

Mr. DOUGLAS. I shall occupy but a few moments as to the claim of Dr. Wells. I hold here a paper which has been laid on our tables, and which I understand to be an abstract of testimony taken in the House of Representatives. I find here two letters, which have passed between Dr. Morton and Dr. Wells, putting to rest the claim of Dr. Wells, brought forward by the Senator from Connecticut. When Dr. Morton made

his discovery, as he alleges, he wrote to his old friend and partner, Dr. Wells, to this effect:

Boston, October 19, 1846.

FRIEND WELLS—Dear Sir: I write to inform you that I have discovered a preparation, by inhaling which, a person is thrown into sound sleep. The time required to produce sleep is only a few moments, and the time in which persons remain asleep can be regulated at pleasure. While in this state the severest surgical or dental operations may be performed, the patient not experiencing the slightest pain. I have perfected it, and am now about sending out agents to dispose of the right to use it. I will dispose of a right to an individual to use it in his own practice alone, or for a town, county, or State. My object in writing you is to know if you would not like to visit New York and the other cities, and dispose of rights upon shares. I have used the compound in more than one hundred and sixty cases in extracting teeth, and I have been invited to administer to patients in the Massachusetts general hospital, and have succeeded in every case.

The Professors, Warren and Hayward, have given me written certificates to this effect. I have administered it at the hospital in the presence of the students and physicians—the room for operations being as full as possible. For further particulars I will refer you to extracts from the daily journals of this city, which I forward to you.

Respectfully yours, WILLIAM T. G. MORTON.

Let us see what Dr. Wells said in reply:

Hartford, Connecticut, October 20, 1846.

DR. MORTON—Dear Sir: Your letter dated yesterday, is just received, and I hasten to answer it, for fear you will adopt a method in disposing of your rights, which will defeat your object. Before you make any arrangements whatever, I wish to see you. I think I will be in Boston the first of next week—probably Monday night. If the operation of administering the gas is not attended with too much trouble, and will produce the effect you state, it will, undoubtedly, be a fortune to you, provided it is rightly managed. Yours, in haste, H. WELLS.

Now, upon the face of these two documents, I do not understand exactly how it is broadly asserted here, that Dr. Wells is the inventor or discoverer of this remedial agent.

I confess that before I examined the matter my prejudices were against this claim, until my colleague in the other House, [Mr. Bissell,] who is a regularly-educated physician, a man of great intelligence, who has had practice as a physician, took it up, and as chairman of that Select Committee gave it a thorough investigation. This report produced entire conviction upon my mind that Dr. Morton was entitled to the credit of this discovery.

I do not mean, nor does that report mean, that he discovered sulphuric ether, or that he was the first man that ever administered sulphuric ether, but simply that he discovered the application of sulphuric ether with reference to destroying pain in surgical operations, and that he discovered it to a degree and extent in which it had not before been administered, and in which it was supposed, was not safe to administer it. He risked his own life by experiments upon his own person; and then he administered it to other persons and ran the risk of a prosecution for malpractice in the event that it should fail. I became satisfied from the testimony that he alone made the experiments, and he alone introduced it to the public; that he introduced it first into the general hospital of Massachusetts, and from there to the world; that he took the entire, sole, and exclusive responsibility of the use and introduction of this agent, until its entire success had been established.

I also find from the report, that while these experiments were going on—while it was doubtful whether they would prove successful—Dr. Jackson was ridiculing and denouncing Dr. Morton as a reckless man, who was hazarding the life of his patients by administering this agent to them, and

that he never set up his claim, although experiments were being made in the immediate vicinity of his own house, until after those experiments had proven successful, and the judgment of the world was about to be pronounced in favor of Dr. Morton, and of this invention that had been made by him.

I find this in the report of the committee of the House of Representatives, and I understand that both parties were represented before that committee. Taking, then, the report of that committee, before whom both parties were represented in person, and by their counsel, where testimony was adduced, and taking that report in connection with the judgment of the general hospital of Massachusetts, where the first experiments were made, and taking all the testimony together, I cannot doubt that the credit is solely due to Dr. Morton.

MR. WALKER. Mr. President, I will ask the attention of the Senate for a very few moments. I profess to be one who has looked into this matter from its foundation to its capstone. I have read everything that has been printed; everything that is extant on the part of both parties; and I believe everything which they have in manuscript.

After Dr. Morton had administered this anæsthetic agent in his dental establishment, he immediately resorted to the Massachusetts general hospital. He got the consent of such men as Dr. Warren, Dr. Hayward, and Dr. Bigelow, that he might there administer it in a capital operation. That operation was performed on the 16th of October, 1846. Again he performed an operation on the 17th of October, and so he continued down to the 2d January, 1847, when these surgeons say was the first they ever heard of the claim of Dr. Jackson. The most distinguished medical men in America swear and certify to this. But this is not all. This matter underwent a serious and candid investigation before the medical men, the surgeons, and trustees of that institution, and they came solemnly to the conclusion, first, that Dr. Jackson had never made any discovery in regard to ether which had not been known long before. Second, that Dr. Morton did, in 1846, manifest, and make plain, and publish to the world, that sulphuric ether, administered in proper quantities and in a proper manner, would produce entire insensibility to any operation. They also decided most solemnly against the claims of Dr. Wells. Not only is that so, but we have here under the hand of Dr. Wells, an acknowledgment that the discovery was Dr. Morton's. Dr. Wells not merely acknowledged it to be Dr. Morton's discovery, but gave him advice about it, and said it would be a fortune to him if he managed it rightly.

Did the general hospital of Massachusetts stop there? No, sir. Dr. Jackson came forward before those great men, and expressed his dissatisfaction at the decision which they had made. He prayed that they might review their decision, and at his request they did review it, one year afterwards, and came solemnly again to the decision to which they had previously come. This was in Boston, where the parties lived. This decision was arrived at by the most scientific men of the continent of America, if not of the world. They reviewed their decision, had the claims again laid before them, and came again, solemnly, to the same conclusion.

In the mean time, however, and while Dr. Jackson was denouncing Dr. Morton as a "reckless"



man; as one who had made no discovery whatever, and who would kill somebody if he did not stop his experiments, wrote a letter to M. Elie de Beaumont, of the Academy of Arts and Sciences of Paris. That letter was sent under secret seal, and it was dated November 13, 1846, just at the very time when he was denouncing Dr. Morton as a reckless wretch who would kill somebody. He sent that letter, with a request that it should not be opened until he gave further information in regard to it. The investigation went on before these daring men of the Massachusetts general hospital, and by Dr. Morton, no less daring, until the 2d of November, 1846; and in this country, Dr. Jackson was never heard of as claiming the discovery before that time. In December, 1846, he wrote another letter, requesting M. De Beaumont to open the sealed package. He opened it and read it, and, on the spur of the occasion, M. Velveau answered it with a sneer, and said:

"The secret contained in the note which has been read is no longer a secret; the medical journals published in America and England have divulged it in the months of November and December. A letter from Dr. Warren, of Boston, communicated the information to me more than one month ago; and Dr. Willis Fisher, of the same city, proposed that I should try its effects at La Charité towards the middle of last December."

That letter of Dr. Jackson's was thus answered by a no less distinguished man than M. Velveau, before the Academy of Arts and Sciences in Paris. But this secret letter had a fatal effect—an effect which I am sure the Academy of Arts and Sciences never ceased to regret. What did it do? It procured, upon the excitement of the moment, a decision of the Academy of Arts and Sciences of France, awarding to Dr. Jackson twenty-five hundred francs, being one of the Monthyon prizes of that institution, and he received the money. But when the good Dr. Warren, and Dr. Hayward, and Dr. Bigelow, and others of the Massachusetts general hospital, who knew all about it, placed this persecuted man, Dr. Morton, before the world, and established his claim, what did the Academy of Arts and Sciences do? We know it is the nature of that institution never to take back anything which it does. It will not acknowledge fallibility; but it went to the extent to which it could go. It awarded to Dr. Morton another prize of the Monthyon foundation, of twenty-five hundred francs—as what? Just for what Fulton was, just for what Jenner, the discoverer of vaccination, was, and for what all other men are, who come before the world making discoveries. The Academy of Arts and Sciences gave him this Monthyon prize for being the man who had discovered, and made beneficial to the world, the use of sulphuric ether as an anæsthetic agent.

Notwithstanding that Dr. Morton had to fight the medical and literary magazines of the country—notwithstanding he had to fight Dr. Jackson, and almost everybody else—for nearly all the surgeons in the country, except those in the Massachusetts general hospital, frowned upon him—notwithstanding all this reduced him to poverty; yet, like a noble man, as he is, he declined to receive the two thousand five hundred francs in money. Still, so anxious was the Academy of Arts and Sciences to place in his hands evidences of their exalted recognition of his rights, that they directed a certain portion of the fund to be paid in the shape of their largest gold medal. That did not exhaust the entire fund, and the friends of

Dr. Morton in France took the balance of it and used it in inclosing the medal in a beautiful gold frame, so that it altogether now presents the beautiful thing which I hold in my hand, [exhibiting it to the Senate.] Dr. Morton would not receive the money, but he received that which he could treasure in his heart, and could look upon as an evidence of the appreciation of his exertions by this noble Academy of Arts and Sciences of Paris. It is a noble appreciation of him who gave this invaluable discovery to the world. It shows whom they considered as the real discoverer.

When you come to look at the testimony on which the claim of Dr. Jackson is based; when you come to inquire really what it is, it would seem most astounding that any one in the world should come forward with such a claim. What was it? At first he claimed nothing more than that he had told Dr. Morton that ether could be taken safely into the lungs. Anybody in the world could have told him that. This substance had been known since the thirteenth century. Its formation was accurately described by Valerius Cordus, in the sixteenth century. Frobenius first designated it ether, and published an account of it in the philosophical transactions in 1730. Its use as a medical agent, first alluded to by Valerius Cordus, and mentioned by Hoffman, Cullen, Alston, Lewis, and Monroe, and other writers of the last century, has long been familiarly known. The history of its use by inhalation, commenced with the pamphlet published in 1795, by Richard Pearson; and several communications from the same Dr. Pearson are to be found in the work of Dr. Beddoes on *Factitious Airs*, published at Bristol, England, in 1796. The same work contains a letter from one of Dr. Thornton's patients, giving an account of his use of ether, by Dr. Thornton's advice, in a case of pectoral catarrh. He says, "it gave almost immediate relief both to the oppression and *pain* in the chest." On the second trial, he inhaled two spoonfuls, with "immediate relief, as before, and I very soon after *fell asleep*." In 1815, Nysten, in the *Directory of Medical Sciences*, speaks of the inhalation of ether as familiarly known for *mitigating pains* in colic. For the last fifty years, most therapeutic authors mention its use by inhalation in asthma, &c., as Duncan, Murray, Brande, Christison, Pereira, Thompson, Barbier, Wendt, Vogt, Sundelin, &c. Effects analogous to intoxication, when ether is inhaled, are stated by American authors, as Godman, (1822,) Mitchell, (1832,) Professor Samuel Jackson, (1833,) Wood & Bache, (1834,) Miller, (1846, and early in that year.)

Dr. John C. Warren, in his work on *Ethierization*, says:

"The general properties of ether have been known for more than a century, and the effect of its inhalation, in producing exhilaration and insensibility, has been understood for many years, not only by the scientific, but by young men in colleges and schools, and in the shop of the apothecary, who have frequently employed it for these purposes."

From the days of Hippocrates down, there has been an effort to obtain an anæsthetic agent—something to lull the patient in surgical operations. But until Dr. Morton, with what physicians termed a daring spirit, came forward and demonstrated it to the world, the right agent had never been found. There is among the testimony, the certificate of the person on whom the agent was first employed. Dr. Morton first extracted teeth in this way. He then went to Dr. Warren, and got him to consent to perform a surgical operation upon a patient, rendered insensible by this agent, which he did

perform on the 16th of October, 1846. Dr. Morton repeated his experiments in surgical operations at the hospital, on the 17th of October, and continually from that day down to the 2d of January, 1847, when Dr. Jackson first made known that he ever had any claim.

The trustees of the general hospital of Massachusetts, as a testimonial of the services of Dr. Morton, raised a fund of \$1,000; but knowing his sensitiveness on the subject, and in order to make the compliment more acceptable to him, that there might remain something connected with it as an enduring monument of their gratitude, they inclosed the amount in a silver casket, containing an engraving manifesting their fourth decision, as you may say, in his favor.

Again, as another testimonial, I may state that the subject was brought up in the Thirtieth Congress, before a select committee of the House of Representatives, and with all the testimony before them, they decided that Dr. Morton was the discoverer. Here, again, in this Congress, after another review of all the testimony, Dr. Morton appearing before them in person, and Dr. Jackson, both in person and by counsel, a select committee of the House of Representatives has decided Dr. Morton to be the discoverer.

All that there is now to answer against his claim, is the remonstrance to which the Senator from Maine has alluded; and what is that remonstrance? It is a remonstrance said to be signed by one hundred and forty-four physicians. The register of physicians of Massachusetts, shows that there are about fifteen hundred in that State. Not one of these remonstrators was in the general hospital of Massachusetts at the time this discovery was brought out; but on the contrary, a great many of them are dentists, who were personal enemies and personal rivals of Dr. Morton, and they are to this day his personal rivals. At the time he was risking his life to bring out this discovery, they were denouncing him, and endeavoring to put him down. They were getting up prosecutions against him, to drive him, if possible, from respectable society. Yet these are the men who come forward and remonstrate! But, is it true, as the remonstrance states, that it is from "Boston and its vicinity?" I have here the State record of Massachusetts, and I find that the names on that remonstrance are scattered all over the State. There are three hundred medical men in Boston alone, and here are one hundred and forty-four remonstrants from the whole State of Massachusetts, and these are Dr. Morton's rivals—men who had first given him notes, and then refused to pay them, and became his enemies, and tried to make out that he had made no discovery! The remonstrance is dated in February last, and they have been ransacking the State of Massachusetts from that time to this, to get up remonstrators against Dr. Morton, and they have succeeded in getting one hundred and forty-four out of fifteen hundred in that State.

We have two reports of the hospital of Massachusetts; we have the prize awarded by the Academy of Arts and Sciences of Paris; we have the award of a casket and \$1,000 by the trustees of the Massachusetts hospital; we have the reports of two select committees of the House of Representatives; we have the concurrent voice of two committees—the Committee on Military Affairs and the Committee on Naval Affairs—of this body; and there is nothing to answer it but this simple remonstrance of which we have heard to-day.

We have nothing in an authentic shape to controvert all these testimonials. Most of these remonstrants do not state that they know anything about the facts, but simply give their "belief." Why not go to Dr. Warren, Dr. Hayward, or Dr. Bigelow? Why not go to the various men who cut off legs and arms, and extirpated tumors, and performed the most dreadful surgical operations with the aid of this agent, when Dr. Morton was making his first experiments? Why did not Dr. Jackson do that? Why did he not bring the names of some surgeons to certify that he discovered this? He could not do it.

These awards to Dr. Morton, the concurrent testimony of all these individuals, speak a voice in America and Europe, and now it is even heard in Asia. But why do we get up a controversy here about the real discoverer of this remedial agent? I have in my possession the original patent, in which it is expressly recited that Dr. Jackson has assigned all his interest in the matter. How did he get any interest? It was through the mistake of the lawyer who was employed in regard to obtaining a patent. Dr. Jackson went to him, and finding him employed in endeavoring to obtain a patent, observed that he had something to do with that matter. The lawyer asked him what he had to do with it. "Why, I told Dr. Morton that ether could be administered with safety." Everybody knew that before. But did he know that pain could be destroyed under its administration? No, sir. He does not attempt to prove it. But let anybody read the review by both select committees of the House of Representatives, of the testimony by which he undertakes to prove it; and if they could ever thereafter believe his witnesses, it is more than I could do. There is not one particle of testimony given, to prove that Dr. Jackson ever said or ever supposed that ether could be so administered as to annihilate pain. All that Dr. Morton wanted to know, in order to be sure, was, that he was not running the risk of murder. Dr. Jackson said it could be administered with safety. He told the patent lawyer that he had something to do with it—that he had given this information to Dr. Morton; and then that lawyer, Mr. Eddy, through a mistake, not knowing the facts, proposed that Dr. Jackson should have some remuneration. What do you think Dr. Jackson was content with, in the first instance? Did he claim any part of this discovery?

Mr. Eddy thought that Dr. Morton ought to make some credit, or do something; and all Dr. Jackson then asked was \$500 for medical advice; and, according to his own language, he went home and charged Dr. Morton upon his books \$500 for medical advice; and Dr. Morton executed a bond to pay Dr. Jackson \$500, provided ten per cent. upon the patent would make that sum. He subsequently claimed ten per cent. upon the patent; and then claimed twenty-five per cent.; and ultimately claimed that he was the real discoverer of the whole. But, however that may be, whatever straits Dr. Morton may have been in, I say, here is the patent in the name of Dr. Morton, and in it Dr. Jackson surrenders any title he could by possibility have. But, whatever Dr. Jackson may be able to show hereafter that he is entitled to, I shall be willing to grant to him.

I must make this further remark: Dr. Morton has been pursued in every step he has taken in this matter. It is in evidence before the committee of the House of Representatives, and they have



reported the fact, that there were raised in England at one time by subscription £10,000, for the discoverer of the anæsthetic properties of ether, and the payment of it to Dr. Morton was prevented by the agitation raised by Dr. Jackson. Dr. Morton has been pursued by people hunting on his track. They are still following him. Here they are, now, pursuing him through the mouth of the Senator from Connecticut. But I do not blame him for making any representations he may see proper in regard to Dr. Wells; but I say that the original claim of Dr. Wells is altogether refuted by his own evidence, and by his own advice to Dr. Morton.

Then, taking all these public monuments, as you may call them, as evidence of the right of Dr. Morton, running from 1846 to 1852, how can it be possibly said that we are taking a snap judgment on anybody? It cannot be truly said. This subject has been long considered, and the judgment of the world has been in favor of Dr. Morton's rights. But here is the patent, and here he is the assignee of any rights that Dr. Jackson may have had.

A proposition now comes up from the Committee on Military Affairs to procure a surrender of that patent; and for what reason is that opposed? Why, that by paying this, we may do something wrong to some other individual. Sir, the patent has been granted at the Patent Office. That is the tribunal established by the Constitution and the laws to decide to whom a patent is due. That institution did decide the patent to be due to Dr. Morton, and it was issued to him, and any rights which Dr. Jackson had in it are recited in the patent as being assigned to Dr. Morton. Then he (Dr. Jackson) can have no claims. But it is not pretended that Dr. Jackson or Dr. Wells have got a patent. It is known that they did not get any. Dr. Morton has the patent, and this appropriation is proposed for the purpose of obtaining the surrender of that patent.

Mr. MALLORY. I am pleased to have this opportunity to manifest, by a vote upon this proposition, my appreciation of the importance of the subject to which it refers; and, sir, if no voice in its behalf had been hitherto raised, if no advocate had ever before appeared to press the claims of him whose successful devotion, whose self-sacrificing labors have secured for him throughout the earth this heaven-born gift—I would have considered it one of the high privileges of the place I occupy to stand forth in that attitude. But, sir, such fortunately is not its position; for the earnest appeals of men, women, and children, the united and consistent testimony of the learned and the unlettered throughout this broad land, have raised up for it here unwavering friends.

This amendment, Mr. President, proposes to pay to the discoverer of the anæsthetic properties of sulphuric ether, inhaled, and of their extraordinary advantages to medicine and surgery, \$100,000, upon the condition that he shall relinquish it to the free enjoyment of mankind, and abandon all the rights of a discoverer and patentee. If the question be asked, What is the character of the service rendered, what is the utility of the discovery?—the response comes from thousands of our own fellow-citizens, in every walk of life, whom gratitude has made eloquent. It comes from the lowly couch of the poor-house patient, and from the aristocratic mansion of the millionaire—from feeble woman in the agonies entailed

upon her first disobedience, and from the stern, strong man writhing in pain. It comes from your battle-fields, from your military, naval, and civil hospitals, from your gallant soldiers and sailors tortured by wounds and amputations. It comes to you from the practitioner in every department of medicine, and with our consent the surgeons of the Old and the New World hail it as the great discovery of the age. Its claims have been examined by select committees of Congress, aided by able counsel, with an industry and accuracy equally honorable to them and to the subject. The trustees of the Massachusetts general hospital presented the discoverer with \$1,000 and an appropriate letter. The chiefs of our own Departments, our Surgeon General, and the head of our Naval Bureau of Medicine and Surgery, give it their unqualified approval, and the Academy of Sciences of Paris, after a thorough investigation of its character, conferred upon its discoverer the "Monthon golden medal" as an extraordinary mark of its approbation.

Such are a few of the thousand evidences of the various characters from Europe and America in its favor. And well, sir, does it merit this praise. Hitherto the surgeon's skill, though advancing with gigantic strides, has been circumscribed and controlled by the power of endurance of his patient; and many operations which comparative anatomy justifies and demands for the salvation of life, have been rendered impracticable by their tortures upon an enfeebled or agonized frame, or by their violent shock to the whole nervous system; and thousands have annually perished whom this discovery might have saved. Men of undoubted courage, wounded at last, after facing death in many forms, shrunk with undefined terror from the prospect which the cold-blooded torture of the surgeon's knife holds before their eyes; and timid woman, sinking beneath disease, not unfrequently prefers the pains of death to the untold horrors of the operator's table. But all this is now passed. The knife has lost its terrors, the tourniquet and saw are regarded without a shudder, and the appearance of the surgeon by the pallet of the untimely sufferer is hailed with joy, for he not only banishes pain, but substitutes for an anguished frame the happy dreams of a joyous spirit. In the language of the venerable and eminent Dr. Warren—

"A new era has opened to the operating surgeon! His visitations on the most delicate parts are performed, not only without the agonizing screams he has been accustomed to hear, but sometimes with a state of perfect insensibility, and occasionally even with the expression of pleasure on the part of the patient. Who could have imagined that drawing the knife over the delicate skin of the face might produce a sensation of unmixed delight—that the turning and twisting of instruments in the most sensitive parts might be accompanied by a beautiful dream?—that the contorting of ankylosed joints should coexist with a celestial vision? If Ambrose Paré, and Louis, and Dessault, and Chesseland, and Hunter, and Cooper, could see what our eyes daily witness, how would they long to come among us, and perform their exploits once more! And with what fresh vigor does the living surgeon, who is ready to resign the scalpel, grasp it, and wish again to go through his career under new auspices?"

If I felt justified, Mr. President, in view of the pressing legislation yet before us, I would embrace this occasion to give the conclusive testimony of the principal practitioners of Europe and America in its behalf; but I do not feel authorized to consume a moment beyond a mere reference to them. In the eloquent testimony of Holmes—

"The knife is searching for disease—the pulleys are drag-

ging back dislocated limbs—nature herself is working out the primal curse, which doomed the tenderest of her creatures to the sharpest of her trials; but the fierce extremity of suffering has been steeped in the waters of forgetfulness, and the deepest furrow in the knotted brow of agony has been smoothed forever.”

And now, Mr. President, if it be difficult to establish a standard by which merit generally is to be rewarded, how utterly impossible must it be to determine its proper bounds in a case like the present, in which an humble individual is the donor, and the whole human family the recipient. His most enduring and valuable reward will be in the undying gratitude of a posterity whose lot is suffering and pain, and a supreme happiness flowing from gratitude to God for being made the medium of such a boon to his creatures. But, sir, let us fulfill our duty. We cannot pay Dr. Morton. His services are beyond price; but we can place his future life beyond the reach of poverty, and in this manner do justice to ourselves; for, Mr. President, to the living searchers after truth, as well as to those children of genius who are yet to struggle in her paths, and in the eyes of all honorable men, the course of the American Senate upon this question will be a beacon of warning or of hope.

I believe not the worn-out apophthegm, that Republics are ungrateful. Ingratitude is the crime of

men, not of political organization—and the sons of Adam possess in common the same virtues and vices. But yet, sir, there is much upon history's page to justify the proposition, even within our own short political existence. The graves of our revolutionary sages are unknown to their free and happy descendants. No Old Mortality renews their fleeting letters; and the monument of its father and hero struggles lingeringly upwards, stone by stone, in spite of their seeming indifference.

Fulton's merits were disregarded; and he was suffered to die owing more dollars than would have covered him in his grave. In pleasing contrast to this, sir, is the grant of the British Parliament of \$150,000 to Dr. Jenner for his discovery of vaccination; and its liberal reward of discoverers in various walks of science. I am persuaded that the objection based upon a constitutional prohibition, made by the honorable Senator from New York, is not seriously urged; and certainly upon one of the alternatives suggested by him, we can reward this applicant. I never saw him till within a day or two, and I know personally nothing of him, but entertain no doubt of the justice of his claim, and hope the amendment will pass.

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